

Department of Health
Notice of Rulemaking Hearing
Board of Respiratory Care
Division of Health Related Boards

There will be a hearing before the Tennessee Board of Respiratory Care to consider the promulgation of amendments to rules and new rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-27-104. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 31st day of October, 2005.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

Substance of Proposed Rules

Amendments

Rule 1330-1-.02, Scope of Practice, is amended by designating the present language of the rule as paragraph (1) and by adding the following language as new paragraph (2):

(2) Use of Titles

- (a) Any person who possesses a valid, unsuspended and unrevoked license issued by the Board has the right to use the titles and/or acronyms “Certified Respiratory Therapist (CRT)” or “Certified Respiratory Therapy Technician (CRTT)” as defined in T.C.A. §§ 63-27-102.
- (b) Any person who possesses a valid, unsuspended and unrevoked license issued by the Board has the right to use the title and/or acronym

“Registered Respiratory Therapist (RRT).” as defined in T.C.A. §§ 63-27-102.

- (c) Any person who possesses a valid, unsuspended and unrevoked license issued by the Board has the right to practice as a respiratory care practitioner as defined in T.C.A. §§ 63-27-102.
- (d) Violation of this rule regarding use of titles shall constitute unprofessional conduct and subject the licensee to disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, 63-27-112, and Public Chapter 467 of the Public Acts of 2005.

Rule 1330-1-.19 Board Officers, Consultants, Records, Declaratory Orders, Advisory Rulings, and Subpoenas is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (7), so that as amended, the new catchline and the new paragraph (7) shall read:

1330-1-.19 Board Officers, Consultants, Records, Declaratory Orders, Advisory Rulings, Subpoenas and Screening Panels.

- (7) Screening Panels - The Board adopts, as if fully set out herein, rule 1200-10-1-.13, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the screening panel process.

Authority: T.C.A. §§ 4-5-107, 4-5-202, 4-5-204, 63-1-138, 63-27-104, 63-27-112, and Public Chapter 234 of the Public Acts of 2005.

New Rules

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1330-1-.20 Advertising

1330-1-.03 Delivery of Respiratory Equipment to a Patient’s Place of Residence.

- (1) When respiratory equipment is delivered and installed in a patient’s place of residence, the following acts constitute the practice of respiratory care because they are a part of the administration of medical gasses:
 - (a) Initial patient assessment;
 - (b) Attachment of the respiratory equipment to the patient;

- (c) Ongoing assessment of the patient's response to the administration of the medical gas;
 - (d) Initial and ongoing instruction and education of the patient (and of the patient's family or other caregiver, where relevant) with respect to the role of the respiratory equipment in managing the patient's disease or condition; and
 - (e) Recommendation to the physician of needed modifications in the physician's order.
- (2) The following acts do not constitute the practice of respiratory care:
- (a) Delivery of respiratory equipment and supplies (initial and replacement) to the patient's place of residence;
 - (b) Assembly of respiratory equipment in the patient's place of residence;
 - (c) Explanation to the patient of the proper operation and maintenance of the following respiratory equipment:
 - 1. Cylinders used with low-flow (set at less than 6.00 liters per minute) nasal cannula;
 - 2. Pressure regulators/Flow controllers used with low-flow (set at less than 6.00 liters per minute) nasal cannula;
 - 3. Home liquid oxygen systems used with low-flow (set at less than 6.00 liters per minute) nasal cannula;
 - 4. Oxygen concentrators used with low-flow (set at less than 6.00 liters per minute) nasal cannula;
 - 5. Oxygen analyzers;
 - 6. Humidifiers; and
 - 7. Small volume medication nebulizers with air compressors.
 - (d) Initial inspection and assessment of the environment in which the respiratory equipment is to be used;
 - (e) Exchange of empty medical gas cylinders;
 - (f) Refilling of liquid oxygen containers; and

- (g) Servicing (including repair and maintenance) of respiratory equipment.
- (3) With respect to the following respiratory equipment, all acts except delivery, repair and maintenance constitute the practice of respiratory care:
 - (a) Continuous Positive Airway Pressure Devices;
 - (b) Bi-Level Positive Airway Pressure Devices;
 - (c) Ventilators;
 - (d) Apnea monitors;
 - (e) High-flow (6.00 liters per minute or higher) nasal cannula;
 - (f) All other oxygen delivery devices; and
 - (g) All other respiratory equipment not listed in subparagraph (2) (c).
- (4) The placement of medication in a small volume medication nebulizer with air compressor and the instruction of a patient about the medication constitutes the practice of respiratory care.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-102, 63-27-104, 63-27-105, 63-27-110, and 63-27-117.

1330-1-.20 Advertising. The following acts or omissions in the context of advertisements by any licensee shall subject the licensee to disciplinary action pursuant to T.C.A. § 63-27-112.

- (1) Claims that convey the message that one licensee is better than another when superiority cannot be substantiated.
- (2) Misleading use of an unearned or non-health degree.
- (3) Misrepresentation of a licensee's credentials, training, experience, or ability.
- (4) Promotion of professional services which the licensee knows or should know is beyond the licensee's ability to perform.
- (5) Use of any personal testimonial attesting to a quality of competency offered by a licensee that is not reasonably verifiable.

- (6) Utilization of any statistical data or other information based on past performances for prediction of future services, which creates an unjustified expectation about results that the licensee can achieve.
- (7) Communication of personal identifiable facts, data, or information about a patient without first obtaining the patient's consent.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, 63-27-112, and Public Chapter 467 of the Public Acts of 2005.

Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 1st Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, TN 37247-1010 615-532-4397.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Board of Respiratory Care.

Robbie H. Bell, Director
Health Related Boards

Subscribed and sworn to before me this the 17th day of August, 2005.

Notary Public

My commission expires on the 25th day of March, 2006.

The notice of rulemaking set out herein was properly filed in the Department of State on the ____ day of _____, 2005.

Riley C. Darnell
Secretary of State

By: _____